

David Schulman – October 21, 2020

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Master docket No. 18-MD-2865 (LAK)
4 Case Nos. 18-cv-09505

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6 IN RE:)
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CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK (SKATTEFOR
VALTNINGEN) TAX REFUND SCHEME
LITIGATION,

REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

EXAMINATION OF

DAVID SCHULMAN

DATE: October 21, 2020

REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 D A V I D S C H U L M A N,

2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
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8 EXAMINATION BY MS. CAHAN:

9 Q Great. So good morning,
10 Mr. Schulman. My name is Valerie Cahan, an
11 attorney at Hughes, Hubbard & Reed. We
12 represent the plaintiff in this case,
13 Skatteforvaltningen, I'm going to refer to
14 them as "SKAT."

15 Thank you for agreeing to do this
16 and agreeing to do it remotely. I hope we
17 will not have too many technical issues.

18 Have you ever been deposed before?

19 A Yes.

20 Q And when was that?

21 A That was about 1986.

22 Q Okay. So it's been a while.

23 A Yes.

24 Q I'm going to just go over some
25 ground rules for the deposition to help this
move smoothly.

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1 was -- had repeatedly asked me to accept some
2 kind of a recompense with the work that I had
3 done for him.

4 And at some point, I don't know, it
5 might have been my brother, I'm not sure,
6 suggested to me that if I did any consulting
7 work, that if I set up these plans, that I
8 could put the money in the plans and have it
9 grow tax-deferred.

10 I spoke to my accountant, who
11 referred me to William Jacobs. And I told
12 him -- I don't know what the names of the
13 plans were or anything, but I said, "This is
14 what I want to do, set up the two plans, and
15 if and when I earn consulting income outside
16 of my regular line of work, that I want to be
17 able to take advantage of that."

18 Q Did you earn consulting income
19 outside of your work?

20 A Yes. Once the plans were set up
21 and Dan knew I had set up the plans, he said
22 "Good. Now that I can pay you -- now I can
23 pay you for everything that you and Joan have
24 done for me, and all the work that you've
25 done for me," and he paid us \$200,000 to each

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1 plan.

2 MR. BLESSINGTON: Could I just stop
3 you there? Did you lose David's
4 picture?

5 A Can you still see me?

6 MS. CAHAN: I've lost the picture,
7 no.

8 (Whereupon a discussion was held
9 off the record.)

10 THE VIDEOGRAPHER: Stand by. The
11 time is 10:22 a.m. We're going off the
12 record.

13 (Brief recess taken.)

14 THE VIDEOGRAPHER: Stand by. The
15 time is 10:27 a.m. and we're back on
16 record.

17 Q Okay. Mr. Schulman, before we took
18 that break, you were talking about Dan
19 Kaminer paying the \$200,000 to each of the
20 pension plans.

21 A Correct.

22 Q And you said that this was to repay
23 you for everything that you had -- you and
24 Joan had done for him?

25 A Yes.

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1 Q And so, that -- was that \$200 per
2 plan?

3 A 200,000 per plan, yes.

4 Q Was that how the plans were
5 initially funded?

6 A Yes.

7 Q What consulting work did you do for
8 Mr. Kaminer?

9 A I advised him on risk arbitrage
10 positions. I backed him up on the drip
11 trading. I gave an opinion if he had a
12 particular strategy that I thought that he
13 wanted my opinion on.

14 There was one in particular that he
15 had already put on rather substantially and I
16 disliked it. And then he went away on
17 vacation and I shut the whole position down.

18 In other words, I made the decision
19 for him in his absence that he shouldn't be
20 in that position. And it turned out that
21 that would have been a very, very expensive
22 mistake outside of general advice.

23 Otherwise, that was it.

24 Q And so, the \$400,000 that he gave
25 to the two plans, was that a repayment of the

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1 prior loan?

2 A No.

3 Q He made a separate repayment of the
4 \$600,000 that you had loaned him?

5 A Yes. That was within two or three
6 years after the loan was given.

7 Q Okay. Did you ever give Dan
8 Kaminer any invoices for the services that
9 you provided?

10 A No.

11 Q How was the amount decided?

12 A I think he decided that was the
13 number that he wanted.

14 Q So what changed in 1995 -- I'm
15 sorry, excuse me.

16 The payments to the two plans, that
17 was in 1995.

18 Correct?

19 A I believe so.

20 Q And so what changed in 1995 that
21 you started to accept payment for services
22 that you were providing to him?

23 A I felt that he really wanted to do
24 it. You know, it was a combination of all of
25 the things that we had been involved in and I

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1 had done for him for eight years.

2 I did not specify an amount, and
3 that was the amount that he chose.

4 Q And you said earlier that Dan
5 Kaminer said that now that you have the
6 pension plans, he could pay you back for the
7 work that you had done.

8 Were these pension plans set up to
9 receive that money from Dan Kaminer?

10 MR. BLESSINGTON: Objection. You
11 may answer.

12 A Not specifically, no. I mean, I
13 might have had that in mind, but no, not
14 specifically.

15 Q And you said that the \$200,000 per
16 plan was a consulting fee?

17 A Yes. Correct.

18 Q And you said that the plans were
19 set up to put consulting income into.

20 Is that right?

21 A Correct.

22 Q Did you receive any other
23 consulting income?

24 A No.

25 Q So the plans were set up to receive

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1 consulting -- this consulting income?

2 MR. BLESSINGTON: Object as to
3 form. You can answer.

4 A Yeah, I don't think that is
5 necessarily true. It was just some outside
6 advice that I got, and I -- I guess I thought
7 about that, because Dan had suggested it
8 multiple times, and I thought that he
9 probably would want to put something in.

10 But was it set up specifically to
11 accept that consulting fee? No, it was not.

12 Q And you didn't receive consulting
13 income from any other sources?

14 A No.

15 Q Are there any written records of
16 the services that you provided to
17 Mr. Kaminer?

18 A None.

19 Q And how much did Dan Kaminer pay to
20 the pension plans, total?

21 A You'd have to ask Stacey.

22 Q And -- I'm sorry -- these are in
23 consulting fees?

24 A I believe that that was it, those
25 two payments.

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1 paid by Tremont for that or not.

2 But I didn't pay him directly.

3 Q Did you ever open bank accounts for
4 these two plans?

5 A No.

6 Q What types of financial accounts
7 did they have?

8 A They had brokerage accounts with
9 Morgan Stanley.

10 Q And did you establish those?

11 A Yes.

12 Q Around 1995 when the plans were
13 created?

14 A I don't know. I think so, but I
15 don't know.

16 Q Did you ever open accounts for the
17 plans anywhere other than Morgan Stanley?

18 A Stacey may have opened accounts,
19 but I did not.

20 Q So when you say "Stacey may have
21 opened accounts," why would she do that for
22 these plans?

23 A She -- well, she was given the
24 responsibility by me to make those type of
25 decisions.